

SHAQUAN WAINWRIGHT and
JAMAAL RICHBERT

PlaintiffS,

V.

CITY OF SHARON,
DANIEL MCEVOY,
MARC ANTHONY ADAMO,
and EDWARD STABILE,
individually and in their official capacity

Defendants.

Civil Action No. 14-1212

Hon. Nora Barry Fischer

ORDER

AND NOW, this 29th day of March, 2016, upon consideration of Plaintiffs' Motion to Compel Compliance with Rule 33 and 34 of the Federal Rules of Civil Procedure and Local Rule 26.2(c) and for Sanctions Under Rule 37 and exhibits attached thereto, (Docket Nos. 36, 36-1, 36-2, 36-3, 36-4), wherein defense counsel agreed to supplement a number of Defendants' discovery responses, (Docket No. 36-2 at 33), Defendants' response to Plaintiffs' Motion, (Docket No. 46), the Court's January 12, 2016 Order, (Docket No. 102), wherein the Court ordered the parties to meet and confer and prepare a joint status report on discovery by January 26, 2016, (*Id.*), Plaintiffs' Unopposed Motion to Modify the Court's Scheduling Order, Docket No. 102, (Docket No. 103), the Court's Order granting Plaintiffs' request for an extension, (Docket No. 104), wherein the Court extended the deadline for the parties to meet and confer until February 15, 2016, (*Id.*), and the parties' arguments at the March 11, 2016 and March 18, 2016 Hearings and Oral Arguments, (Docket Nos. 127, 138),

IT IS HEREBY ORDERED that Plaintiffs' Motion to Compel is GRANTED, in part, and DENIED, in part. Defendant City of Sharon shall supplement its answers to Plaintiffs' First Set of Interrogatories and responses to Plaintiffs' First Set of Requests for Production by **Friday, April 29, 2016**. Specifically, Defendant City of Sharon shall:

1. Supplement its responses to Plaintiffs' Request Nos. 5 and 6;
2. Supplement its response to Plaintiffs' Request No. 9, including personnel files, properly redacted for personal identifiers;
3. Supplement its responses to Plaintiffs' Request Nos. 11 and 12, as the Court overrules Defendants' objections to same;
4. Supplement its responses to Plaintiffs' Request Nos. 13 and 14, but the Court denies Plaintiffs' motion to the extent they seek responses for a period of time starting January 1, 2005. Defendants shall provide responses only for the period of time starting January 1, 2011;
5. Supplement its response to Plaintiffs' Request No. 15 as it relates to the individual Defendants in this case, for the period of time starting January 1, 2013. Defendant City of Sharon shall additionally include the requested information relating to Travis Martwinski and Gerald T. Smith, for the period of time starting January 1, 2013, if they are employed by Defendant City of Sharon;
6. Supplement its response to Plaintiffs' Request No. 17. Defendant shall produce the requested documents as they relate to the terms, "Obama," "NAACP," and others with the exception of the terms "public housing," and "ghetto," as the Court denies Plaintiffs' motion to compel production of documents including those terms because they are overbroad. Defendant City of Sharon shall redact the telephone numbers in those documents; and
7. Supplement its response to Plaintiffs' Request No. 18.

IT IS FURTHER ORDERED that Plaintiffs' Motion to Compel responses to Plaintiffs' Request Nos. 8 and 10 as they pertain to Defendants Stabile, McEvoy, and Adamo is GRANTED, in part, DENIED, in part. Defendants Stabile, McEvoy, and Adamo shall produce all non-privileged documents responsive to Plaintiffs' Request Nos. 8 and 10 by **Friday, April 29, 2016**. Defendants Stabile, McEvoy, and Adamo shall produce a privilege log for any allegedly privileged documents responsive to Plaintiffs' Request Nos. 8 and 10, and produce said documents to the Court for review, *in camera*, by **Friday, April 29, 2016 at 5:00 p.m.**

IT IS FURTHER ORDERED that Plaintiffs' Motion to Compel response to Plaintiffs' Second Set of Requests for Production to Defendant City of Sharon, (Docket No. 36 at 22), is GRANTED. Defendant City of Sharon shall serve full and complete responses by **Friday, April 29, 2016**. To the extent that Plaintiffs and their counsel challenge the sufficiency of Defendants' production, they shall meet and confer with defense counsel by **May 6, 2016**. Any motion to compel shall be filed by **May 13, 2016**.

IT IS FINALLY ORDERED that Plaintiffs' motion for reasonable expenses, (Docket No. 36 at 23), is DENIED. The Court notes that given that Plaintiffs' motion, (Docket No. 36), was granted, in part, and denied, in part, the Court has discretion whether to award reasonable expenses. FED. R. CIV. P. 37(a)(5)(C) ("If the motion is granted in part and denied in part, the Court may issue any protective order authorized under Rule 26(c) and may, after giving an opportunity to be heard, apportion the reasonable expenses for the motion."). In this case, the Court will not award reasonable expenses because, among other things, the Court notes that counsel and all parties have delayed in proceeding through discovery, evidence of good faith conferral, *see* PRACTICES AND PROCEDURES OF JUDGE NORA BARRY FISCHER EFFECTIVE FEBRUARY 5, 2013; Local Rules of Court, Western District of Pennsylvania, 26.2(C), following the Court's decision on Defendants' Motion for Judgment on the Pleadings, (Docket No. 28), and Plaintiffs' Motion for Leave to Amend the Complaint, (Docket No. 57), is lacking, and that the parties failed to comply with this Court's order requiring them to file a Joint Discovery Status Report by February 15, 2016, (Docket No. 104).

IT IS SO ORDERED.

s/Nora Barry Fischer
Nora Barry Fischer
United States District Judge

cc/ecf: All counsel of record